

Beiersdorf 571.2-HCL
100718-370
6713-Dr. Wi-ar

| |
|---------|
| REMARKS |
|---------|

Amendment to the Claims

Claims 13 and 14 have been amended to correct minor typographical errors. Claims 13-24 are still pending. It is believed that no new matter has been added.

Statutory Double Patenting Rejection

Although at first glance the claims appear to be identical in scope because of the similarity in claim language, this is not correct.

Claim 1 of the '680 patent includes a limitation as to the scope of how the metal oxides can be coated. Claim 7 states that the inorganic pigments are titanium dioxide particles coated with simethicone and alumina. While claim 19 of the present application has similar language, the difference in scope resides in what else is encompassed by the claim language.

Both claim 7 of '680 and claim 19 of the present application cover a titanium dioxide coated with simethicone and alumina. However, if there is(are) additional coating(s), the scope of the(se) coating(s) in claim 7 of '680 is limited to the scope described in (iii)(A) and (iii)(B) in claim 1. No such limitation is present in claim 19 of this application.

Non-Statutory Double Patenting Rejection

A terminal disclaimer has been filed over U.S. Patent 6,379,680 (which is the patent from the parent application SN: 09/367,365) which not only renders this rejection moot but also the remaining non-statutory and provisional non-statutory double patenting rejections.

The reason for this is that in SN: 09/367,365, terminal disclaimers were filed over each of the parent applications which resulted in the patents or child applications cited in the examiner's office action. Therefore, filing additional terminal disclaimers would be superfluous.

Beiersdorf 571.2-HCL
100718-370
6713-Dr. WI-ar

Closing

Applicants also believe that this application is in condition for allowance. However, should any issue(s) of a minor nature remain, the Examiner is respectfully requested to telephone the undersigned at telephone number (212) 808-0700 so that the issue(s) might be promptly resolved.

Respectfully submitted,

Norris, McLaughlin & Marcus, P.A.

By: Howard C. Lee
Howard C. Lee
Reg. No. 48,104

220 East 42nd Street
30th Floor
New York, New York 10017
(212) 808-0700

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the foregoing Amendment under 37 CFR § 1.111 (7 pages) is being facsimile transmitted to the United States Patent and Trademark Office on the date indicated below:

Date: 9 February 2004

By: Agata Glinska
Agata Glinska